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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/935,803 | 08/23/2001 | Lance C. Sherry | H000333/56180.5200 | 9582 |

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EXAMINER

SWARTHOUT, BRENT

ART UNIT PAPER NUMBER

2632

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,803

Applicant(s)

Sherry et al.

Examiner

Brent A Swarthout

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28, + 31-33 is/are rejected.
- 7) ☒ Claim(s) 29-30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The disclosure is objected to because of the following informalities: on page 5 no description is provided for Fig. 5C; on page 7, line 12 no "8xxx" is shown in the figures; and on page 13, numeral 421 is described but not shown in figure 6A.

Appropriate correction is required.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16 "said current position" has no antecedent basis.

3. Applicant's residence has been omitted from papers. The city and state of applicant's post office address will be presumed to be the city and state of residence. If the above is incorrect, applicant should submit a statement as to place of residence no later than at the time of payment of the issue fee.

4. Claims 5, 10-17 and 29-30 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for displaying a target and capture attributes, does not reasonably provide enablement for first and last capture initiation positions. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in

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scope with these claims. On pages 13-15 and figures 6 and 7 a first point to initiate capture above the aircraft is described, and then a last point to initiate capture above the aircraft is also described, which is actually closer to the aircraft than the first point. Thus if a pilot has to initiate capture 544 feet above the aircraft, a last point of capture to avoid altitude bust would have had to have been higher than 544 feet above the aircraft, not an altitude of 294 feet which would have already been passed when the first capture point was reached. A correct discussion of the capture point appears on page 14 of the specification, where two altitudes below the target altitude are referred to.

Also, in figures 8A and 8B, a target altitude 420 of 10,000 feet is referred to, but the figures show an altitude below the current altitude, not above it.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubbat et al.

Kubbat discloses a pilot data display comprising current attribute (large triangle, Fig. 6), target 39, and capture attribute (path of triangles, Fig. 6).

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6, 19-28 and 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Berlioz et al.

Berlioz discloses a pilot data display comprising current attribute indicator 9, target attribute 19, capture attribute indicator 11, the current attribute 9 is altitude position, the capture attribute 11 being a position corresponding

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to altitude position, the capture attribute 11 being a position corresponding to altitude rate necessary for target capture.

Regarding claim 6, Berlioz teaches use of trajectory 18B (Fig. 10c) to the target altitude.

Regarding claim 20, Berlioz teaches use of automatic pilot (col. 10, line 27).

Regarding claims 22-23, Berlioz teaches capture of ascending and descending targets (Figs. 9A, 11).

Regarding claim 24, Berlioz teaches target altitude defined by vertical speed (col. 7, lines 10-19).

Regarding claim 27, Berlioz discloses a capture region rectangular indicator 10 and an overshoot indicator 15a on sliding scale indicator 8.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schardt, Sherry, Robbins, Leard and Agate disclose aircraft display device.

8. Claims 29-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent

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Swartout, whose telephone number is (703) 305-4383. The examiner can normally be reached on M-F from 6:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on (703) 308-6730. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9324.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Brent Swarthout

**BRENT A. SWARTHOUT
PRIMARY EXAMINER**

BS/ayc

March 11, 2003